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Attorneys for Plaintiff Bongo Burger, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BONGO BURGER, INC., on behalf of itself and all
others similarly situated,

Plaintiff.

v.

TECUMSEH PRODUCTS COMPANY; TECUMSEH
COMPRESSOR COMPANY; TECUMSEH DO
BRASIL, LTDA.; TECUMSEH DO BRASIL
USA, LLC; DANFOSS A/S; DANFOSS, INC.;
DANFOSS COMMERCIAL COMPRESSORS, LTD.;
DANFOSS SCROLL TECHNOLOGIES, LLC;
DANFOSS TURBOCOR COMPRESSORS, INC.;
DANFOSS COMPRESSOR, LLC; WHIRLPOOL
CORPORATION; WHIRLPOOL, S.A.; EMBRACO
NORTH AMERICA, INC.; PANASONIC
CORPORATION; PANASONIC CORPORATION OF
NORTH AMERICA; APPLIANCES COMPONENTS
COMPANIES, SpA., ACC USA, LLC, EMERSON
CLIMATE TECHNOLOGIES, INC.; COPELAND
CORPORATION, LLC; CR COMPRESSORS LLC;
AND SCROLL COMPRESSORS LLC,

Defendants.

Case No. 3:09-cv-01836-MMC

ORDER APPROVING

STIPULATION AND
~~PROPOSED~~ ORDER FOR
EXTENSION OF TIME TO
RESPOND TO CLASS
ACTION COMPLAINT

**STIPULATION AND [PROPOSED] ORDER FOR EXTENSION OF TIME TO RESPOND
TO CLASS ACTION COMPLAINT**

Currently pending before the United States Judicial Panel on Multidistrict Litigation (“JPML”) are motions filed pursuant to 28 U.S.C. § 1407 to consolidate related civil actions for pretrial proceedings (the “Related Actions”). In light of the proceedings before the JPML, and subject to the Court’s approval, plaintiff Bongo Burger, Inc. (“Plaintiff”) and defendants Tecumseh Products Company, Tecumseh Compressors Company, Danfoss Commercial Compressors, Ltd., Danfoss, Inc., Danfoss Scroll Technologies, LLC, Danfoss Turbocor Compressors, Inc., Danfoss Compressors, LLC, Whirlpool Corporation, Embraco North America, Inc., ACC USA LLC, Panasonic Corporation of North America, Emerson Climate Technologies, Inc., Copeland Corporation, LLC, CR Compressors, LLC, and Scroll Compressors LLC (collectively “Stipulating Defendants”), by and through their undersigned counsel, stipulate:

(1) If the JPML transfers all related civil actions to a single district for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, the Stipulating Defendants shall, as permitted by Federal Rule 12, answer, move or otherwise plead in response to the complaint in the above captioned action (the “Complaint”) within 45 days after: (a) the plaintiffs in the consolidated actions serve a consolidated amended complaint on behalf of the putative class of plaintiffs included in this action, or (b) the plaintiffs in the consolidated actions, filed on behalf of the putative class of plaintiffs included in this action, serve notice that they will not file a consolidated amended complaint.

(2) If the JPML denies the motions to transfer all related civil actions to a single district for coordinated or consolidated pretrial proceedings, the Stipulating Defendants shall, as permitted by Federal Rule 12, answer, move or otherwise plead in response to the Complaint within 45 days after service of the JPML ruling.

1 (3) If all plaintiffs in the Related Actions agree to consolidate all related civil actions in a
2 single district and withdraw the pending motions before the JPML, and the Stipulating Defendants, or
3 any of them, have not and do not file their own motions to transfer the Related Actions to a single
4 district for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, the
5 Stipulating Defendants shall, as permitted by Rule 12, answer, move or otherwise plead in response
6 to the Complaint within 45 days after: (a) the plaintiffs in the consolidated actions file a consolidated
7 amended complaint on behalf of the putative class of plaintiffs included in this action, or (b) the
8 plaintiffs in the consolidated actions, filed on behalf of the putative class of plaintiffs included in this
9 action, serve notice that they will not file a consolidated amended complaint.
10

11 (4) Notwithstanding paragraphs (1), (2), or (3), if any Stipulating Defendant files an
12 answer or other responsive pleading in any of the Related Actions before the date required by this
13 stipulation, such Stipulating Defendant will concurrently file its answer or responsive pleading in this
14 matter.
15

16 (5) The defense counsel identified below agree to accept service on behalf of the
17 Stipulating Defendants they represent of the summons and the complaint in this matter, and
18 Stipulating Defendants shall not contest the sufficiency of process or service of process. Plaintiff and
19 the Stipulating Defendants further stipulate and agree that the entry into this stipulation by the
20 Stipulating Defendants shall not constitute a waiver of any jurisdictional defenses that may be
21 available under Rule 12 of the Federal Rules of Civil Procedure, a waiver of any affirmative defenses
22 under Rule 8 of the Federal Rules of Civil Procedure, or a waiver of any other statutory or common
23 law defenses that may be available to the Stipulating Defendants in this and the other Related
24 Actions. The Stipulating Defendants expressly reserve their rights to raise any such defenses in
25 response to either the current Complaint or any amended complaint that may be filed relating to this
26 action.
27
28

(6) Plaintiff further agrees that this extension is available, without further stipulation with counsel for Plaintiff, to all named defendants who notify Plaintiff in writing of their intention to join this Stipulation.

IT IS SO STIPULATED

Dated: May 21st, 2009

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ATTESTATION PURSUANT TO GENERAL ORDER 45


I, Clement L. Glynn, attest that concurrence in the filing of this document has been properly obtained from the above signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 21st day of May, 2009, in Walnut Creek, California.

/s/ Clement L. Glynn

PROPOSED ORDER

PURSUANT TO STIPULATION, , AND GOOD CAUSE THEREFOR APPEARING, IT IS
SO ORDERED:

Date: May 22, 2009


Honorable Maxine M. Chesney
United States District Court Judge